IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2438 OF 2005

M/s.R. Shantilal & Co. & Orss .. Petitioners.
V/s.
Union of India & Others .. Respondents.

Mr.Ashok Singh i/b. H. Mehta & Co. for the petitioners.
Mr.S.S. Pakale with Mr.D.A. Dubey for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 30TH SEPTEMBER, 2005.

P.C. :

1. Heard learned counsel on both sides.

2. This petition is directed against the impugned order dated November 9, 2004 passed by the Settlement Commission : Customs & Central Excise, Additional Bench, Mumbai rejecting the application at the stage of admission under Sub-section 1 of Section 127C of the Customs Act, 1962 relying upon the judgment of the Madras High Court passed on October 18, 2001 in the case of Commissioner of Customs (Air) Chennai V/s. Customs and Central Excise Settlement Commission [2002 (139) ELT 512 (Madras)].

3. Subsequent to the aforesaid impugned order, the Division Bench of this Court had an occasion to consider the challenges raised at the instance of the

Union of India and the Commissioner of Customs and in some cases at the instance of the importers in the case of Union of India V/s. M/s.Hoganas India Ltd. & Others (Writ Petition No.115 of 2004) with other companion writ petitions and this Court did not agree with the view taken by the Madras High Court in the case of Commissioner of Customs (Air) Chennai (cited supra).

4. In the aforesaid view of the matter, the impugned order cannot stand to scrutiny of law since it is mainly based on the judgment of the Madras High Court in the case of Commissioner of Customs (Air) Chennai (supra). In these circumstances, without examining the merits or demerits of the impugned order, we set aside the impugned order and remit the matter back to the Settlement Commission with direction to consider the same denovo in the light of the law laid down by this Court in the case of Union of India V/s. M/s.Hoganas India Ltd. & Others (Supra). Needless to mention that all rival contentions of the parties are kept open.

5. The petition stands disposed of. Rule is made absolute in terms of this order with no order as to costs.

(J.P. DEVADHAR, J.) (V.C. DAGA, J.)